

March 12, 2015

WISCONSIN SUPREME COURT

TABLE OF PENDING CASES

Clerk of Supreme Court
Telephone: (608) 266-1880
Facsimile: (608) 267-0640
Web Site: www.wicourts.gov
Wisconsin Supreme Court Case Access: <http://wscca.wicourts.gov>

The following table describes pending cases the Supreme Court has accepted on petition for review, bypass, certification and original jurisdiction.

The cases included for the first time (that is, the most recently accepted cases) are marked with an * next to the case number. After the Supreme Court decides a case, the date of oral argument or date of submission on briefs is replaced with the date of the Supreme Court decision and abbreviated mandate. That mandate will generally be listed in the table for two months and then the case will be removed from the table.

The information in the table, from left to right, is as follows:

- the case number;
- an abbreviated caption of the case (case name);
- a statement of the issue(s);
- the date the Supreme Court accepted the case;
- the method by which the case came to the Supreme Court: REVW = Petition for review, CERT = Certification, CERQ = Certified Question, BYPA = Petition to bypass, ORIG = Original Action, WRIT = Petition for supervisory writ, REMD = Remanded from the U.S. Supreme Court;
- the date of oral argument or submission on briefs; or the date of the Supreme Court decision and an abbreviated mandate;
- the Court of Appeals district from which the case came, if applicable; the county;
- the date of the Court of Appeals decision, if applicable;
- whether the Court of Appeals decision is published or unpublished, and, if it is published, the citations to the public domain citation and the official reports for the Court of Appeals decision.

The statement of the issue is cursory and does not purport to be an all-inclusive, precise statement of the issues in the case. Readers interested in a case should determine the precise nature of the issues from the record and briefs filed with the Supreme Court.

The following table covers cases accepted and decisions issued through **March 12, 2015**. Please direct any comments regarding this table to the Clerk of Supreme Court, P.O. Box 1688, Madison, WI 53701-1688, telephone (608)266-1880.

APPENDIX

WISCONSIN SUPREME COURT PENDING CASES

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Case No.	Caption/Issue(s)	SC Accepted	CA Dist/Cty	CA Decision
2009AP3073-CR	<u>State v. Michael R. Griep</u> Does the Confrontation Clause prohibit a surrogate witness, who reviewed a non-testifying forensic analyst's certified report, notes, and results and did not personally conduct or observe any of the relevant analyses, from testifying regarding the analyst's procedures and conclusions?	08/05/2014 REVW Oral Arg 11/12/2014	2 Winnebago	03/26/2014 Pub. 2014 WI App 25 353 Wis. 2d 252 845 N.W.2d 24
2011AP1803-CR	<u>State v. General Grant Wilson</u> Did the defendant satisfy the opportunity requirement for presenting third-party-perpetrator evidence under <u>State v. Denny</u> , 120 Wis. 2d 614, 357 N.W.2d 12 (Ct. App. 1984)? If the answer to the first question is "yes," was the error in excluding the <u>Denny</u> evidence harmless beyond a reasonable doubt?	02/19/2014 REVW Oral Arg 09/04/2014	1 Milwaukee	Unpub.
2011AP2956-CR	<u>State v. Gary Monroe Scull</u> Whether the good faith exception to the exclusionary rule applies where the police obtained a search warrant in good faith – although based, in part, on a prior illegal search with a drug-sniffing dog. See <u>State v. Dearborn</u> , 2010 WI 84, 327 Wis. 2d 252, 786 N.W.2d 97 and <u>Florida v. Jardines</u> , 569 U.S. ___, 133 S. Ct. 1409, 1417 – 18 (March 26, 2013).	05/22/2014 REVW Affirmed 03/05/2015 2015 WI 22	1 Milwaukee	02/26/2014 Pub. 2014 WI App 17 352 Wis. 2d 733 843 N.W.2d 859
2012AP1493	<u>Donald Christ, et al. v. Exxon Mobil Corporation, et al.</u> Was there a violation of defendants' right to equal protection and due process by summarily reversing the circuit court's decision dismissing plaintiffs' claims? Does Wis. Stat. § 893.54(1) extinguish non-medical malpractice survival actions commenced by special administrators more than three years after the date of the decedent's death? Does § 893.54(2) extinguish non-medical malpractice wrongful death actions commenced by beneficiaries more than three years after the date of the decedent's death? When applying the discovery rule to survival and wrongful death claims, may a court look to a beneficiary's or special administrator's knowledge to determine when an injury to the decedent was discovered?	10/06/2014 REVW Oral Arg 02/04/2015	3 Eau Claire	--

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2012AP2490	<u>Wisconsin Federation of Nurses and Health Professionals v. Milwaukee County</u> Was it error to conclude that an ordinance stating the benefit in issue was a “unilateral” contract because the offer (here, payment of Medicare Part B premiums . . .) cannot be accepted without the happening of something down the road that may or may not happen—retirement. (See <u>Loth v. City of Milwaukee</u> , 2008 WI 129, 315 Wis. 2d 35, 758 N.W.2d 766) Did the ordinance providing for payment of Medicare Part B premiums unconditionally guarantee employees that the County would not diminish or impair the employee’s right to that particular retiree health insurance benefit before the employee retired and became otherwise eligible to receive it? Did the County breach a contract by amending an ordinance to modify a retiree health insurance benefit which amendment could only apply to the affected employees who had not yet retired and become eligible for that benefit?	02/19/2014 REVW Affirmed and remanded 02/12/2015 2015 WI 12	1 Milwaukee	11/20/2013 Pub. 2013 WI App 134 351 Wis. 2d 421 839 N.W.2d 869
*2012AP2520	<u>Hoffer Properties, LLC v. State of Wisconsin, DOT</u> What is the standard as to when the government must pay compensation when it eliminates an abutting landowner’s right of direct access (by a driveway or the right to apply for a driveway permit) to a controlled-access highway?	02/10/2015 REVW	4 Jefferson	Unpub.
2012AP2692-CR	<u>State v. Roddee W. Daniel</u> Should a defendant bear the burden of proving incompetency in a postconviction proceeding? What procedure should be employed when a defendant and defense counsel disagree as to the defendant’s competency? What standard of review should be applied to a circuit court’s postconviction competency determination?	09/18/2014 REVW Oral Arg 01/09/2015	2 Kenosha	05/28/2014 Pub. 2014 WI App 46 354 Wis. 2d 51 847 N.W.2d 855

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2012AP2782-CR	<u>State v. Andre M. Chamblis</u> Where a defendant seeks to plead guilty or no contest to a charge of operating a motor vehicle while under the influence of an intoxicant (OWI), or with a prohibited alcohol concentration (PAC), does <u>State v. Bangert</u> , 131 Wis. 2d 246, 389 N.W.2d 12 (1986) and due process principles require that the number of prior offenses that count for sentence enhancement be determined prior to entry of the defendant's plea? Is a court of appeals' decision ordering remand to the circuit court with instructions to: (1) issue an amended judgment of conviction reflecting a conviction for operating with a PAC, as a seventh offense, and (2) hold a resentencing hearing, and impose a sentence consistent with the penalty ranges for a seventh offense, constitutionally permissible under <u>Bangert</u> and due process principles where the defendant specifically entered a plea of guilty to PAC as a sixth offense, where the circuit court sentenced the defendant in accordance to proper penalties for PAC as a sixth offense, and where the defendant has already served the confinement portion of such sentence?	11/18/2014 REVW Oral Arg 03/03/2015	4 La Crosse	Unpub.
2013AP127-CR	<u>State v. Raheem Moore</u> Did a law enforcement officer's decision to turn off a recorder violate the mandate of <u>State v. Jerrell C.J.</u> , 2005 WI 105, 283 Wis. 2d 145, 699 N.W.2d 110 and Wis. Stat. § 938.195, thus requiring suppression of a juvenile's unrecorded statement and his subsequent recorded statement? Was the defendant's inculpatory statement made voluntarily?	05/22/2014 REVW Oral Arg 09/23/2014	1 Milwaukee	02/26/2014 Pub. 2014 WI App 19 352 Wis. 2d 675 846 N.W.2d 18
2013AP197-CR	<u>State v. Jesse L. Herrmann</u> Whether, when sentencing a defendant for homicide and injury by intoxicated use of a vehicle, a sentencing judge's remarks, which spoke of losing a sister to a drunk driver in 1976, were an abuse of discretion and a violation of due process by demonstrating an appearance of bias.	09/24/2014 REVW Oral Arg 02/03/2015	4 La Crosse	Unpub.
2013AP218-CR	<u>State v. Jessica M. Weissinger</u> In light of <u>State v. Dubose</u> , 2005 WI 126, 285 Wis. 2d 143, 699 N.W.2d 582, should the court interpret the Wisconsin Constitution to provide greater due process protection than the federal constitution, such that a defendant was denied due process under the Wisconsin Constitution when a blood sample was destroyed before the defendant was charged with offenses based on a detectable amount of a controlled substance in the defendant's blood?	10/15/2014 REVW Oral Arg 02/03/2015	2 Ozaukee	07/30/2014 Pub. 2014 WI App 73 355 Wis. 2d 546 851 N.W.2d 780

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2013AP225	<u>State v. Michael Alger</u> Where a Chapter 980 petitioner files a petition for discharge at the effective date of amendments to Wis. Stat. § 907.02(1) (2012); whether those amendments apply to the proceedings on the petitions or do not because the “action” was “commenced” with filing of the petition for commitment in 2004? Does Wis. Stat. § 907.02(1) violate the petitioner’s rights to Equal Protection if it is deemed to be inapplicable to discharge petitions filed after the effective date of the statute?	05/23/2014 REVW Affirmed 01/20/2015 2015 WI 3	3 Outagamie	12/18/2013 Pub. 2013 WI App 148 352 Wis. 2d 145 841 N.W.2d 329
2013AP265	<u>Mauricio Aguilar, et al. v. Husco International, Inc., et al.</u> Did employees “earn” wages for 20-minute meal breaks, where it is undisputed that their union-negotiated, employee-ratified collective bargaining agreements called breaks to be unpaid? Has there been substantial compliance by an employer with DWD § 274.02 (protecting workers from unhealthy and unsafe work hours) where DWD interprets DWD the statute as permitting employees to agree to \$0.00/hour as the rate of pay for 20-minute meal breaks and where DWD found that the 20-minute meal breaks have not endangered the health or safety of the employees? Are the employer’s defenses of waiver, unjust enrichment, equitable estoppel and failure to mitigate damages barred by Wisconsin law? Are the employer’s state law defenses to employees’ state law claims barred by federal law? Is the employer’s third-party claim under § 301 of the LMRA against District 10 for breach of the federally recognized contractual duty of good faith and fair dealing barred by that same federal law? Are Husco’s state law third-party claims against District 10 for promissory estoppel and unjust enrichment barred by federal law?	09/24/2014 REVW Oral Arg 02/03/2015	1 Milwaukee	06/25/2014 Pub. 2014 WI App 64 354 Wis. 2d 526 851 N.W.2d 802

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2013AP298-CR	<u>State v. Richard H. Harrison</u> Whether a judge, lacking competence due to a timely motion for substitution under Wis. Stat. § 971.20, presiding over a jury trial and entering the judgment of conviction constitutes “structural error” requiring automatic reversal. Or is the error harmless under a harmless error analysis? Whether a defendant’s objection to competency of a judge due to a timely motion for substitution under Wis. Stat. § 971.20 was waived when he failed to timely object to the judge’s lack of competence.	05/22/2014 REVW Affirmed and remanded 01/22/2015 2015 WI 5	4 Clark	Unpub.
2013AP430-CR	<u>State v. Patrick I. Hogan</u> When a person is detained by law enforcement officers for a period of time and then verbally released by the officers for a comparatively brief period of time before being re-approached by the officer(s), when is the time of the officers’ disengagement of the person regarded as a brief interruption of the detention and when should disengagement be regarded as the end of one stop and the start of a second stop?	11/13/2014 REVW Oral Arg 03/04/2015	4 Grant	Unpub.
2013AP467-CR	<u>State v. Eddie Lee Anthony</u> May a criminal defendant be denied his right to testify pursuant to <u>Illinois v. Allen</u> , 397 U.S. 337 (1970), where his behavior does not become disruptive, obscene, or violent such that he must be removed from his trial?	08/05/2014 REVW Affirmed 03/03/2015 2015 WI 20	1 Milwaukee	Unpub.
2013AP500	<u>Melissa Anderson v. Thomas Aul, et al.</u> Do Wis. Stat. §§ 631.81(1) and 632.26(2) require occurrence malpractice insurance? Does requiring an insurer to provide coverage for a claim that is not within the scope of the policy’s insuring agreement prejudicial to the insurer?	08/05/2014 REVW Reversed 02/25/2015 2015 WI 19	2 Waukesha	03/26/2014 Pub. 2014 WI App 30 353 Wis. 2d 238 844 N.W.2d 636
2013AP544	<u>Bank of New York v. Shirley T. Carson</u> Whether Wis. Stat. § 846.102 requires a plaintiff in a foreclosure action to sell the subject property “without delay” upon the expiration of the redemption period. (cf. <u>Deutsche Bank Nat’l Trust Co. v. Matson</u> , 2013 WI APP 105, 349 Wis. 2d 789, 837 N.W.2d 178 (petition for review denied) Identical language in Wis. Stat. § 846.103 permits, but does not force, a plaintiff to bring the property to sale).	05/23/2014 REVW Affirmed and remanded 02/17/2015 2015 WI 15	1 Milwaukee	12/18/2013 Pub. 2013 WI App 153 352 Wis. 2d 205 841 N.W.2d 573

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2013AP557-CR	<u>State v. Corey R. Kucharski</u> In granting a defendant a new trial on the issue of mental responsibility under the miscarriage-of-justice prong of Wis. Stat. § 752.35, did the decision conflict with <u>State v. Sarinske</u> , 91 Wis. 2d 14, 280 N.W.2d 725 (1979)?	09/24/2014 REVW Oral Arg 03/10/2015	1 Milwaukee	Unpub.
2013AP558-CR	<u>State v. Joel M. Hurley</u> Did an amended complaint provide adequate notice to satisfy a defendant's due process right to prepare a defense? Did the circuit court properly exercise its discretion in admitting other acts evidence? Did the circuit court err in ordering a new trial for the prosecutor's unobjected-to remark in closing argument about a defendant's failure in his trial testimony to make a strong denial of a witness' allegations?	09/18/2014 REVW Oral Arg 01/08/2015	3 Marinette	Unpub.
2013AP578	<u>State v. Ronald Knipfer</u> Does a Chapter 980 petition for discharge filed after the effective date of the statutory revision adopting the <u>Daubert v. Merrell Dow Pharm., Inc.</u> , 509 U.S. 579 (1993) reliability standard for expert testimony commence a new action subject to the revised standard, or does a discharge petition continue the original 980 proceeding, so that a patient whose original commitment was initiated prior to February 1, 2011, will remain subject to the former evidentiary standard in all future discharge proceedings? If the revised standard governing the admissibility of expert testimony does not apply to a petitioner's present and future discharge proceedings because his original commitment was initiated prior to February 1, 2011, does this statutory revision violate a petitioner's rights to due process and equal protection of the law? Should a reviewing court apply strict scrutiny or a rational basis standard?	05/23/2014 REVW Affirmed 01/20/2015 2015 WI 3	4 Dane	01/29/2014 Pub. 2014 WI App 9 352 Wis. 2d 563 842 N.W.2d 526
2013AP591	<u>Oneida Seven Generations Corporation v. City of Green Bay</u> Under certiorari review standards, should the case have been remanded to the municipality when it was established that the municipality failed to articulate the rationale for its decision? Did the appellate "substantial evidence" review conflict with controlling decisions of the court addressing the substantial evidence standard to be applied in certiorari actions by equating the substantial evidence standard with the great weight and clear preponderance of the evidence standard?	09/18/2014 REVW Oral Arg 01/08/2015	3 Brown	Unpub.

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2013AP679	<u>MS Real Estate Holdings, LLC v. Donald P. Fox Family Trust</u> Is a right of first refusal agreement regarding real estate indefinite when it does not contain a term of duration or any declaration that the right is perpetual? Is a right of first refusal agreement subject to the general rules of contract construction, such as the rule of indefiniteness of time for performance? Whether fifteen years is a reasonable period of time for purposes of terminating a right of first refusal agreement.	11/17/2014 REVW Oral Arg 03/03/2015	3 Outagamie	08/27/2014 Pub. 2014 WI App 84 356 Wis. 2d 307 853 N.W.2d 627
2013AP843-CR	<u>State v. Danny Robert Alexander</u> Can an appellate court decide a case on the ground of ineffective assistance of counsel when that issue had never been raised or argued by the parties in the circuit court or in their briefs on appeal?	06/12/2014 REVW Reversed 01/27/2015 2015 WI 6	1 Milwaukee	Unpub.
*2013AP907	<u>Kenneth C. Burgraff, Sr. v. Menard, Inc.</u> Did an insurance company's duty to defend an insured terminate after the company settled with a plaintiff for less than the insurance company's liability limit?	02/10/2015 REVW	3 Eau Claire	08/27/2014 Pub. 2014 WI App 85 356 Wis. 2d 282 853 N.W.2d 574
2013AP1023	<u>Adam R. Mayhugh v. State of Wisconsin</u> Does Wis. Stat. § 301.04 ("The department may sue and be sued.") waive the Department of Corrections' sovereign immunity? If not, what is the meaning of the language, "sue or be sued"?	11/13/2014 REVW Oral Arg 03/10/2015	4 Waushara	--
2013AP1108-CR	<u>State v. Jesse J. Delebreau</u> Once trial counsel has been appointed for a criminal defendant, if the defendant requests a custodial interview with law enforcement, is it a violation of that defendant's Sixth Amendment right to counsel for law enforcement to take a statement from the defendant, without the defendant's appointed attorney being present, if the officer provides the usual <u>Miranda v. Arizona</u> , 384 U.S. 436 (1966) warnings before taking the statement? Is it a violation of the defendant's Article I, Section 7 of the Wisconsin Constitution's right to counsel?	05/22/2014 REVW Oral Arg 11/05/2014	3 Brown	02/26/2014 Pub. 2014 WI App 21 352 Wis. 2d 647 843 N.W.2d 441
2013AP1205	<u>First Weber Group, Inc. v. Synergy Real Estate Group, LLC</u> Was there an agreement to arbitrate and a dispute subject to that agreement (elements under Wis. Stat. § 788.03) in a proceeding to compel arbitration in a real estate matter? May a court order an arbitration-forum time limitation rule (during a proceeding under Wis. Stat. § 788.03) that had already been decided in arbitration?	09/24/2014 REVW Oral Arg 02/04/2015	4 Dane	04/30/2014 Pub. 2014 WI App 41 353 Wis. 2d 492 846 N.W.2d 348

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2013AP1303	<u>Acuity v. Chartis Specialty Insurance Company</u> When a pollution liability insurance policy covers all losses as a result of claims for bodily injury or property damage caused by "polluting conditions," does such coverage also require that the contaminated nature of the contaminant most proximately cause the property damage or bodily injury? Can an insurer refuse to defend or indemnify its insured when the wording in the grant of coverage under the insurance policy would lead a reasonable insured to conclude that the underlying liability was covered by the policy?	09/18/2014 REVW Oral Arg 01/14/2015	2 Waukesha	Unpub.
2013AP1345-CR	<u>State v. Andrew M. Obriecht</u> Must sentence credit for pretrial incarceration granted by a court be used to reduce a revoked parolee's period of incarceration, rather than the remaining parole period after the completion of the incarceration? (See Wis. Stat. § 302.11 (7))	11/14/2014 REVW Oral Arg 03/03/2015	4 Dane	04/30/2014 Pub. 2014 WI App 42 353 Wis. 2d 542 846 N.W. 2d 479
2013AP1392	<u>Runzheimer International, Ltd. v. David Friedlen, et al.</u> Is consideration in addition to continued employment required to support a covenant not to compete entered into by an existing at-will employee?	06/12/2014 CERT Oral Arg 10/01/2014	1 Milwaukee	--
2013AP1407	<u>Wisconsin Realtors Association, et al. v. Public Service Commission of Wisconsin</u> When promulgating an administrative rule, must the promulgating agency request the preparation of a housing impact report pursuant to Wis. Stat. § 227.115, whenever the subject matter of a proposed rule relates to housing or because the rule could reasonably affect housing? When promulgating a rule, can an agency conclude that it is not obligated to request the preparation of a housing impact report by the (then) Department of Commerce (currently the Department of Administration), pursuant to the provisions of Wis. Stat. § 227.115, if it concludes that that impact of that rule will be acceptable? Does the court of appeals' decision effectively relieve administrative agencies of the obligation to comply with the rule-making procedures of Wis. Stat. § 227.115?	10/07/2014 REVW Oral Arg 02/05/2015	3 Brown	Unpub.

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2013AP1437-CR	<u>State v. Hatem M. Shata</u> Was trial counsel's advise to a defendant that he faced a "strong chance" of deportation based on a plea to a felony charge constitute deficient performance under <u>Padilla v. Kentucky</u> , 559 U.S. 356 (2010)? Did a defendant establish prejudice under <u>Padilla</u> and <u>State v. Mendez</u> , 2014 WI App 57, 354 Wis. 2d 88, 847 N.W.2d 895 by showing that, had he been fully informed of the deportation consequences of his plea, it would have been rational to reject the plea and proceed to trial?	12/15/2014 REVW Oral Arg 04/21/2015	1 Milwaukee	Unpub.
2013AP1531-CR	<u>State v. Brian S. Kempainen</u> Whether a trial court must apply the first three factors of <u>State v. Fawcett</u> , 145 Wis. 2d 244, 426 N.W.2d 91 (Ct. App. 1988) to determine whether a complaint is sufficiently definite in a case involving delayed allegations of sexual assault.	09/18/2014 REVW Oral Arg 01/08/2015	2 Sheboygan	05/28/2014 Pub. 2014 WI App 53 354 Wis. 2d 177 848 N.W.2d 320
2013AP1532	<u>Ash Park, LLC v. Alexander & Bishop, Ltd.</u> Is a vacant land offer to purchase an "enforceable contract" so as to require a seller to pay a commission under a real estate listing contract when the seller obtained a judicial order for specific performance, but the buyer lacked the funds to purchase and could not be compelled to honor that order?	11/19/2014 REVW Oral Arg 03/04/2015	3 Brown	08/27/2014 Pub. 2014 WI App 87 356 Wis. 2d 249 853 N.W.2d 618
2013AP1581-CR	<u>State v. Richard E. Houghton, Jr.</u> Does Wis. Stat. § 346.88 (3) (b) prohibit any obstruction to the driver's clear view through the front windshield, or does it prohibit only obstructions that materially interfere with the driver's view through the front windshield? May an officer stop a vehicle when the officer does not have probable cause, but does have reasonable suspicion, that the operator is violating a traffic law such as Wis. Stat. § 346.88 (3) (b)? Is the holding of <u>State v. Longcore</u> , 226 Wis. 2d 1, 594 N.W.2d 412 (Ct. App. 1999), aff'd by an equally divided court, 2000 WI 23, 233 Wis. 2d 278, 607 N.W.2d 620 (per curiam), that a valid traffic stop cannot be based on a mistake of law inconsistent with the U.S. Supreme Court's Fourth Amendment interpretation in <u>Heien v. North Carolina</u> , No. 13-604?	01/13/2015 REVW Oral Arg 04/22/2015	2 Walworth	Unpub.

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2013AP1715	<p><u>The Journal Times v. City of Racine Board of Police and Fire Commissioners</u></p> <p>Does <u>Newspapers, Inc. v. Breier</u>, 89 Wis. 2d 417, 279 N.W.2d 179 (1979) preclude a custodian from asserting a statutory exception in its initial denial of production of records? (See Wis. Stat. §§ 19.21, et seq., "Open Records Law")</p> <p>Does equitable estoppel allow a requester to recover under the public records law based on the custodian's failure to assert the correct exception in its initial denial?</p> <p>May a requester use a mandamus action under the public records law to enforce an alleged violation of the open meetings law?</p> <p>Does the custodian's obligation "to provide sufficient notice of the basis for the denial to enable [the requester] to choose a course of action," <u>Mayfair Chrysler-Plymouth, Inc. v. Baldarotta</u>, 162 Wis. 2d 142, 162, 469 N.W.2d 638 (1991), apply to all requests under the Open Records Law?</p> <p>When a records custodian abandons its stated reason for denial and attempts to defend against a mandamus action on other grounds, is the party challenging the denial entitled to an award of attorney fees, as a matter of law, for having prevailed "in substantial part"?</p>	<p>11/14/2014 REVW Oral Arg 03/04/2015</p>	<p>2 Racine</p>	<p>06/25/2014 Pub. 2014 WI App 67 354 Wis. 2d 591 849 N.W.2d 888</p>
2013AP1737-CR	<p><u>State v. Michael R. Luedtke</u></p> <p>Consistent with <u>State v. Griffin</u>, 220 Wis. 2d 371, 584 N.W.2d 127 (Ct. App. 1998), which recognized that a blood or urine test, standing alone, is insufficient to prove knowing possession of cocaine because cocaine can be unwittingly ingested, must Wis. Stat. § 346.63(1)(am), which prohibits operating a motor vehicle with a detectable amount of a restricted controlled substance in the blood, be construed to include a scienter element rather than authorizing punishment even when an otherwise unimpaired driver unknowingly ingests the restricted substance?</p> <p>Consistent with this court's conclusion in <u>State v. Dubose</u>, 2005 WI 126, 285 Wis. 2d 143, 699 N.W.2d 582, that the Wisconsin Constitution provides greater due process protection than the federal constitution, was a defendant denied due process when, following the filing of charges, his blood sample was destroyed before he received actual notice of the restricted substance charge?</p>	<p>10/15/2014 REVW Oral Arg 02/03/2015</p>	<p>2 Winnebago</p>	<p>07/30/2014 Pub. 2014 WI App 79 355 Wis. 2d 436 851 N.W.2d 837</p>

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2013AP1750	<u>Ronald J. Dakter v. Dale L. Cavallino</u> Does the “superior skills” doctrine apply in a motor vehicle negligence action, such that a commercial truck driver is held to a higher standard of conduct than an ordinary automobile operator? Was the use of “professional negligence” language in the jury instructions improper? See <i>Saxby v. Cadigen</i> , 226 Wis. 391, 396 – 7, 63 N.W.2d 820 (1954).	01/12/2015 REVW Oral Arg 04/22/2015	4 Juneau	11/18/2014 Pub. 2014 WI App 112 358 Wis. 2d 434 856 N.W.2d 523
2013AP1753-CR/ 2013AP1754-CR	<u>State v. Rogelio Guarnero</u> Whether the circuit court improperly used a prior federal guilty plea and conviction under the Racketeer Influenced and Corrupt Organizations Act (RICO), 18 U.S.C. §§ 1961-68, to count as a prior offense in a defendant's state felony case. (See Wis. Stat. § 961.41 (3g) (c)).	11/14/2014 REVW Oral Arg 03/10/2015	1 Milwaukee	05/28/2014 Pub. 2014 WI App 56 354 Wis. 2d 307 848 N.W.2d 329
2013AP2107-CR	<u>State v. Dean M. Blatterman</u> Did the police have probable cause to arrest a defendant for an OWI, prohibited alcohol concentration (PAC) charge, when the police were aware that the defendant had three prior OWI offenses and thus had a .02 PAC threshold? Did the police have a legitimate community caretaker concern when they transported the defendant from the stop site, ten miles to the nearest hospital, when they were advised by dispatch that defendant's wife felt that he may have health issues?	09/24/2014 REVW Oral Arg 02/04/2015	4 Dane	Unpub.
2013AP2207	<u>Milwaukee City Housing Authority v. Felton Cobb</u> In federally subsidized housing, would applying a state right-to-cure statute in cases of criminal lease violations stand as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress by denying subsidized housing providers the ability to enforce a federal 'One Strike and You're Out' policy regarding drug-related or violent criminal activity?	09/18/2014 REVW Reversed 03/12/2015 2015 WI 27	1 Milwaukee	06/25/2014 Pub. 2014 WI App 70 354 Wis. 2d 603 849 N.W.2d 920
2013AP2435-CR	<u>State v. Fernando Ortiz-Mondragon</u> Does <i>Padilla v. Kentucky</i> , 559 U.S. 356 (2010) require counsel to conduct research and investigation to determine whether a particular crime falls into a broader category of crimes for which the immigration consequences are clear? Does a signed Plea Questionnaire form, on its own, affirmatively demonstrate that counsel adequately advised his client of deportation consequences?	12/18/2014 REVW Oral Arg 04/21/2015	3 Brown	11/18/2014 Pub. 2014 WI App 114 358 Wis. 2d 423 856 N.W.2d 339

NOTE: The statement of the issue is cursory and does not purport to be an all-inclusive, precise statement of the issues in the case. Readers interested in a case should determine the precise nature of the issues from the record and briefs filed with the Supreme Court.

APPENDIX

WISCONSIN SUPREME COURT PENDING CASES

Clerk of Supreme Court
(608) 266-1880

Case No.	Caption/Issue(s)	SC Accepted	CA Dist/ Cty	CA Decision
2014AP1099-CR	<u>State v. Maltese Lavele Williams</u> Whether a sufficiency of the evidence challenge requires measuring the evidence against the instructions the jury actually received, as happened in <u>State v. Wulff</u> , 207 Wis. 2d 143, 557 N.W.2d 813 (1997), or against the statutory requirements, as happened in <u>State v. Beamon</u> , 2013 WI 47, 347 Wis. 2d 559, 830 N.W.2d 681?	12/18/2014 CERT Oral Arg 04/21/2015	1 Milwaukee	--

NOTE: The statement of the issue is cursory and does not purport to be an all-inclusive, precise statement of the issues in the case. Readers interested in a case should determine the precise nature of the issues from the record and briefs filed with the Supreme Court.